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**STORM & HEMINGWAY**  
A LIMITED LIABILITY PARTNERSHIP

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**INTELLECTUAL PROPERTY LAW**

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LITIGATION • PROSECUTION • LICENSING

June 6, 2002

*DAC #*  
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JUN 20 2002

**OFFICE OF PETITIONS**

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(214) 292-8301

Examiner Roxanne Rawls  
United States Patent and Trademark Office  
Washington, D.C. 20231

*Via Facsimile (703)308-7749*

Re: Application of Walter Solomon  
Serial No. 09/648,930  
Filed: August 25, 2000  
Buoyant Waterfowl Decoy with  
Interchangeable Movable Appendages  
Our File: Wond P-1005

Dear Examiner Rawls:

Pursuant to your request, we enclose herewith a Petition to Revive Allegedly Unintentionally Abandoned Application Under 37 CFR § 1.137(b). Please file the petition and deduct the appropriate \$130.00 petition fee from the deposit account of D. Scott Hemingway, Deposit Account No. 501,270. Thank you for your help and courtesy in this matter.

Very truly yours,

*D. Scott Hemingway*  
D. Scott Hemingway

RECEIVED

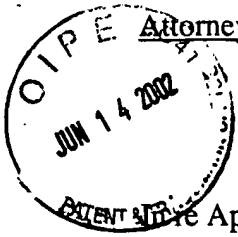
JUN 20 2002

OFFICE OF PETITIONS

PATENT

COPY OF PAPERS  
ORIGINALLY FILED

Attorney Docket No. P1005



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of: Solomon, Walter

Serial No.: 09/648,930

Filed: August 25, 2000

For: Buoyant Waterfowl Decoy with Interchangeable Movable Appendages

Group Art Unit: 3643

Examiner: Roxanne Rawls

Assistant Commissioner of Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

**PETITION TO REVIVE ALLEGEDLY UNINTENTIONALLY  
ABANDONED APPLICATION UNDER 37 CFR § 1.137(b)**

By telephone, the Applicant's attorney was informed on June 3, 2002 that the above-identified application may be deemed abandoned because the Applicant allegedly failed to file a timely reply to a Notice of Missing Parts dated October 18, 2000.

Applicant's present counsel is not original counsel in this application. Previous counsel filed the patent application on August 25, 2000. A Filing Receipt for the original action dated October 18, 2000 was received from the Patent and Trademark Office (PTO).

The Examiner has informed the Applicant's current counsel that a Notice of Missing Parts

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231, and we are sending the correspondence by facsimile transmission to the U.S. Patent and Trademark Office.

Date: June 6, 2002

*Malcolm Pipes*  
Malcolm Pipes

06/18/2002 SLUANG1 00000007 501270 09648930

01 FC:122 130.00 CF

Adjustment date: 09/06/2002 AKELLEY 09648930  
06/18/2002 SLUANG1 00000007 501270  
01 FC:122 130.00 CR  
09/06/2002 AKELLEY 00000011 501270 09648930  
01 FC:241 640.00 CH

Filing was also sent to the Applicant's previous attorney on October 18, 2000. The application file in the possession of Applicant's current counsel contains the Filing Receipt, but there is no Notice of Missing Parts in the file. Previous counsel states that he does not recall receiving a Notice of Missing Parts or a Notice of Incomplete Reply. (Exhibit 1 – Statement of Ronald B. Sefrna). If he did receive such a notice, it is his belief that he would have responded to it in a timely fashion. Id.

Applicant's current counsel received the application file from previous counsel in mid-May 2001. The application appeared to be complete when received, and there was no notice of incompleteness in the file or a Notice of Missing Parts Filing. A Revocation of Prior Powers of Attorney and New Power of Attorney with Certificate Under 37 C.F.R. § 3.73(b) was subsequently mailed to the PTO on May 23, 2001. Applicant's current counsel also filed a Preliminary Amendment on July 3, 2001.

Applicant's current counsel received a Notice Regarding Power of Attorney dated November 13, 2001. The following week, counsel received a Notice of Incomplete Reply dated November 20, 2001 from the PTO. A Response to Notice of Incomplete Reply was mailed to the PTO on November 29, 2001. All items cited in the November 20, 2001 notice were included in the reply, and the Examiner acknowledges that the Applicant properly responded to the November 20, 2001 Notice.

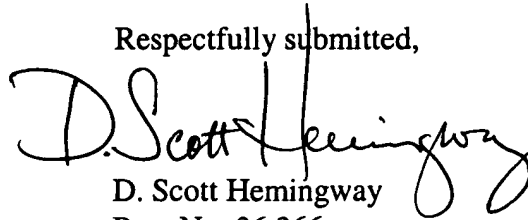
The Examiner, however, indicated on June 3, 2002 that a lapse in the application's continuity might have occurred by the failure to respond to the Notice of Missing Parts allegedly sent on October 18, 2000. Applicant does not believe it received the Notice of

Missing Parts dated October 18, 2000 based on the statements in the Affidavit of Ronald B. Sefrna, prior counsel to the Applicant. However, Applicant is filing this petition in an act of prudence to preclude any future confusion or question as to the continuity of the application.

For the reasons cited, the entire delay in filing the required reply until the filing of a grantable petition under 37 CFR § 1.137(b) was entirely unintentional. The Applicant's current counsel and the Applicant were not aware of the alleged missing parts notice until receipt of the telephone call from the Examiner on June 3, 2002, and they were not aware of any alleged abandonment in the application. Applicant requests revival of the application.

Please deduct the petition fee in the amount of \$130.00 from the deposit account of D. Scott Hemingway, Deposit Account No. 501,270. Applicant does not believe any additional fees are required, but if any are, please also deduct the appropriate amount.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Scott Hemingway". The signature is fluid and cursive, with the first name "D." and last name "Hemingway" clearly distinguishable.

D. Scott Hemingway  
Reg. No. 36,366

ATTORNEYS FOR APPLICANT

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PATENT

Attorney Docket No. P1005



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Solomon, Walter

Serial No.: 09/648,930

Filed: August 25, 2000

For: Buoyant Waterfowl Decoy with Interchangeable Movable Appendages

Group Art Unit: 3643

Examiner: Roxanne Rawls

Assistant Commissioner of Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231

STATEMENT OF RONALD B. SEFRNA

STATE OF TEXAS       §  
                              §  
COUNTY OF TYLER     §

1. I am over twenty-one years of age, am of sound mind, have never been convicted of a felony, and am fully capable, competent and authorized to make this Affidavit. I am acquainted with and have personal knowledge of the facts stated herein, and they are all true and correct.

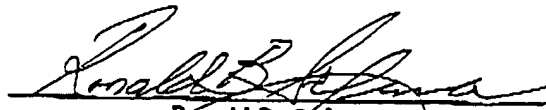
2. I was previously counsel to the above-identified Applicant in the above-identified patent application. I filed the application on August 25, 2000.

3. I received a Filing Receipt dated October 18, 2000. I do not recall receiving a Notice of Missing Parts or a Notice of Incomplete Reply. I also understand there is not a copy of

such a notice in the application file I maintained in this application. If I received a Notice of Missing Parts, under normal practices of my office, a copy of the notice should be placed in the file. If I did receive a Notice of Missing Parts, it is my belief that I would also have responded to the notice in a timely fashion.

4. I transferred this patent application file for Mr. Solomon to D. Scott Hemingway in May 2001. I did not receive any correspondence regarding a defect in this application either immediately prior to or after this transfer. Nor did I submit any paper to the Patent and Trademark Office (PTO) regarding any defect in that time period.

5. Any abandonment in this matter was unintentional. No decision was made during my tenure as counsel to abandon this application. I am not aware of any intention by Mr. Solomon to abandon the application before transferring the files to Mr. Hemingway. I do not recall transferring this patent application to Mr. Hemingway with any pending submissions or deadlines to the PTO or informalities in the status of the application. At the time of the transfer to Mr. Hemingway, I believed the patent application to be complete and properly pending.

  
Ronald B. Seftin  
JUNE 5, 2002